

### Remarks

This Amendment is in response to the Office Action dated **October 28, 2009**.

Claims 1-9 were allowed. Claims 10-18 and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by EPA 0082295 (hereinafter "EPA '295").

With this response, claims 1, 10, 12 and 20 have been amended. Claims 1-18 and 20 are presented for reconsideration and allowance.

### *Claim Rejections - § 102(b)*

Claims 10-18 and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by EPA '295. Independent claims 10 and 12 have been amended to clarify that an agglomerate of mixed plastics from waste removal is fibrillated and mixed with wood fibres or wood flakes prior to compression of the panel.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

As described in the present application, agglomerate is formed as follows:

"A usual processing of the mentioned mixed plastics is the so-called agglomerating. Disintegrated sheets are heated by friction by stirring in a stirrer so that the disintegrated particles begin to melt and become fused. Cold water is sprayed onto the heated agglomerate in intervals so that a portion of organic contents escapes with the water vapor. Contemporarily, the melted sheets cool down and agglomerate to flowable granular structures. The typical product of transportable classified fraction of mixed plastics, predominantly sheet remainder, thus is the agglomerate. Agglomerates of mixed plastics have normally a bulk density of 320 kg/m<sup>3</sup> and can be well-transported." [0010]

Applicants submit that EPA '295, on the other hand, discloses "immersing the material to be ground in a cryogenic fluid to render the material brittle and then feeding the so-treated material to a cryogenic impact mill to achieve the necessary degree of comminution." EPA '295, p. 4, l. 38; p. 5, l. 1-3. EPA '295 does not disclose an agglomerated form.

Furthermore, EPA '295 refers to a sandwich plate and only an inner layer includes comminuted plastic scrap. *See* p. 2, l. 21-29. This is contrary to the invention where plastic

grains are distributed throughout the plate.

Claims 10 and 12 are therefore not anticipated by EPA '295, and should be allowed. Claims 11 and 15-18 depend from allowable claim 10. The rejections of those claims should be withdrawn and the claims allowed. Claims 13-14 depend from allowable claim 12. The rejections of those claims should be withdrawn and the claims allowed.

Claim 20 also describes a milled agglomerate. The arguments presented above with respect to claims 10 and 12 are also applicable to claim 20. Claim 20 is therefore not anticipated by EPA '295 and should be allowed.

### ***Conclusion***

Applicant believes that claims 1-18 and 20 are in condition for allowance. Notice to that effect is respectfully requested.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: March 1, 2010

By: /Martha J. Engel/  
Martha J. Engel  
Registration No.: 61534

6640 Shady Oak Rd., Suite 400  
Eden Prairie, MN 55344-7834  
Telephone: (952) 563-3000  
Facsimile: (952) 563-3001